

convey the standard of Section 103, and since the Examiner combined two references to make the rejection - a practice available only under Section 103, Applicant assumes that the rejection was meant to be under Section 103.

For the most part, the Examiner relies on August in making the rejection. Applicant respectfully submits that August, independently or in combination with Noreen or any other prior art of record, fails to teach or suggest the claimed invention.

Claim 1

Applicant respectfully submits that the combined prior art fails to disclose or suggest the at least the limitations:

"a main processor receiving a programming signal and a rider signal from a program transmission channel and directing said programming signal to the audio player and storing the rider signal in the rider buffer;"

That is, according to the claimed invention, a main processor receives a signal that includes both the programming signal and the rider signal. This main processor then sends the program signal to the audio player and stores the remaining raider signal in a rider buffer. Such an apparatus is not disclosed nor suggested by the combined prior art.

Taking the disclosure of August, for example, there a receiver, such as a radio or a television, receives the program signal and the rider signal and plays both signals. The receiver does not separate the signals, not stores the rider signal in a rider buffer - nor is there a suggestion or a motivation to do so. Therefore, August clearly fails to disclose or suggest the limitation "directing said programming signal to the audio player

and storing the rider signal in the rider buffer;" as August discloses directing both the program signal and the rider signal to the audio player and fails to disclose storing the rider in a rider buffer.

On the other hand, August discloses a "capture device" that captures the rider signal. However, even if one considers the capture device to correspond to the claimed "main processor," it still fails to disclose or suggest the quoted limitation. That is, August's capture device fails to anticipate or suggest the limitation "directing said programming signal to the audio player." This is, of course, because in August the programming signal has already been played and perceived by the user.

Thus, as can be seen, the limitation to "main processor" is not disclosed nor suggested by August. If one argues that August's receiver is the main processor, then August's "main processor" fails to store the rider signal on a rider buffer, but rather plays the rider signal on the audio player. If one argues that August's capture device is the main processor, then August's "main processor" fails to send the programming signal to the audio player.

Accordingly, Applicant respectfully submits that August, individually or in combination with the prior art of record, fails to disclose or suggest claim 1 and its dependent claims.

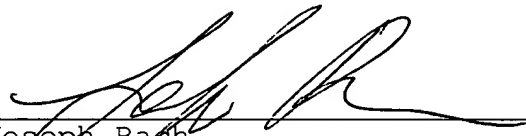
Claim 10

Claim 10 and its dependent claim 12 have been canceled, thereby making the pending rejection moot with respect to these claims.

Conclusion

Accordingly, it is respectfully submitted that the remaining are patentable over the prior art.

Respectfully submitted,



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